

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 10-11780
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT JULY 5, 2011 JOHN LEY CLERK

D.C. Docket No. 1:08-cv-21017-DLG

DANIEL TREVINO,

Plaintiff-Appellant,

versus

DR. ROGER BROWNE,
NURSE RICKY ROWE,
all sued in their individual capacities,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida

(July 5, 2011)

Before EDMONDSON, CARNES and ANDERSON, Circuit Judges.

PER CURIAM:

Daniel Trevino, a Florida state prisoner proceeding pro se, appeals the district court's grant of summary judgment in favor of Ricky Rowe. Trevino filed an action under 42 U.S.C. § 1983 against Rowe, a nurse, alleging deliberate indifference to a serious medical need.¹ The case was assigned to a magistrate judge. Thereafter, Rowe filed a motion for summary judgment. Even though the magistrate judge sent Trevino an "Order of Instructions to Pro Se Plaintiff Concerning Response to a Motion for Summary Judgment," Trevino never responded to Rowe's motion for summary judgment. The magistrate judge issued a report and recommendation, which recommended that Rowe's motion for summary judgment be granted. Although Trevino filed a motion requesting additional time to respond to the R&R, which the district court granted, he never filed any objections. The district court adopted the R&R and granted Rowe's motion for summary judgment. Trevino appealed.

Trevino now contends that summary judgment was inappropriate for six reasons. Although he had the opportunity to make those arguments in response to

¹Trevino also filed a § 1983 complaint against Dr. Roger Brown; however, Brown was never served with process. Accordingly, the district court found that the case against Brown should be closed. Trevino did not object to that finding in the district court and he has not objected to that finding before us. Therefore he has waived and abandoned that issue and we will not consider it further. See Access Now, Inc. v. Southwest Airlines Co., 385 F.3d 1324, 133, 1335 (11th Cir. 2004) ("We will not address a claim that has been abandoned on appeal" or "an issue not raised in the district court.").

Rowe’s motion for summary judgment, and after the magistrate judge’s “Order of Instructions,” and after the magistrate judge issued the R&R, and after the district court granted Trevino additional time to object to the R&R, Trevino never did so. “This Court has repeatedly held that an issue not raised in the district court and raised for the first time in an appeal will not be considered,” Access Now, Inc. v. Southwest Airlines Co., 385 F.3d 1324, 1331 (11th Cir. 2004) (quotation marks omitted), and this is not one of the “exceptional circumstances in which it may be appropriate to . . . deviate from this rule of practice.” Dean Witter Reynolds, Inc. v. Fernandez, 741 F.2d 355, 360 (11th Cir. 1984).

AFFIRMED.